

every turn, Convolv has refused to inspect the drives. Although the Hawk drives remain available for inspection today, Dell cannot force Convolv to participate in discovery and inspect the drives. Dell has done all it can to make the Hawk drives available where Convolv can inspect those drives.

B. Convolv Offers No Credible Excuse for Violating Its Own Inspection Standard with Respect to the Physical Devices Used by Dr. DiEuliis in His Expert Report

Convolv's explanations for its own failure to follow its discovery standard is incorrect. Convolv first argues that "Dell had access to its own computers." Reply at 4, nn. 3. Dell has never had access to the computers tested by Dr. DiEuliis and which formed a basis for his opinions. That those models of computers were sold years ago does not change the standard or excuse Convolv's non-production. Convolv further argues that Dell "never expressed an interest in inspecting its own computers." *Id.* This too does not change the standard for making items available, and Convolv has never made these computers available for inspection. Convolv itself has shown no interest in inspecting the Hawk drives, as demonstrated by its calculated refusal to inspect the drives. Convolv's motion should be denied.

C. Dr. Buckman Does Not Rely on Any Inspection or Testing of the Western Digital AL2200 Drive

With respect to Dr. Buckman's opinions on validity in view of the '473 patent in view of the Western Digital AL2200 drive, Dr. Buckman did no inspection or testing of a Western Digital AL2200 drive. His opinions are therefore not based on any inspection or testing of a Western Digital AL2200 drive. Convolv's complaints about lack of access to a Western Digital AL2200 drive are irrelevant to Dr. Buckman's opinions.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically on June 16, 2011, pursuant to Local Rule CV-5(a) and has been served on all counsel who are deemed to have consented to electronic service.

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